

CHAPTER 9. LIQUOR

Section 900 - Sale of Liquor and Wine; Licensing

900.01 Definitions. Unless the context otherwise clearly indicates, the following terms shall have the stated meanings:

Bar. A counter or similar kind of place or structure at which wine or liquor is served.

Commissioner. The State Commissioner of Public Safety.

Cafe. See definition of "restaurant" in this Subsection.

Club. Any corporation duly organized under the laws of the State for civic, fraternal, social or business purposes, or for intellectual improvement, or for the promotion of sports, which shall have more than 50 members, and which for more than one year shall have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for the purpose, none of whose members, officers, agents or employees are paid, directly or indirectly, any compensation by way of profit from the distribution or sale of beverages to the members of the club or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

Food Establishment License. A license issued by the City under the provisions of Section 721 of this Code.

Hotel. An establishment where food and lodging are regularly furnished to transients and which has a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time, and at least 50 guest rooms.

Intoxicating Liquor. Ethyl, alcohol, and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Intoxicating Malt Liquor. Any beer, ale or other beverage made from malt by fermentation and containing more than 3.2 percent of alcohol by weight.

License. A license granted pursuant to this Section.

Licensed Premises. The area shown in the license application as the place where wine or liquor will be served or consumed.

Liquor. 3.2 percent malt liquor, intoxicating liquor, and intoxicating malt liquor.

Meal. Entrees and sandwiches offered on a restaurant menu.

Off-Sale. Retail sale in the original package for consumption away from the premises only.

On-Sale. Sale for consumption on the premises only.

Original Package. Any container or receptacle holding liquor, in which the liquor is corked or sealed at the place of manufacture.

Restaurant. An establishment, under control of a single proprietor or manager, having appropriate facilities for serving meals and where in consideration of payment, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests, and which has a seating capacity for not fewer than 30 guests at one time.

Sale, Sell, Sold. All barter, exchanges, gifts, sales, and other means used to obtain, dispose of, or furnish any liquor or wine or any other beverage, directly or indirectly, as part of a commercial transaction, in violation or evasion of the provisions of this Section, but does not include sales by State licensed liquor wholesalers selling to licensed retailers.

State Established Legal Drinking Age. For purposes of this Section, the State established legal age for consumption of liquor and wine is 21 years of age.

3.2 Percent Malt Liquor. Any potable beverage with an alcoholic content of more than one-half of one percent by volume and not more than 3.2 percent by weight.

Wine. Vinous beverage created by fermentation.

900.02 Off-Sale Limited to Municipal Liquor Stores; Dispensary Established. No intoxicating liquor, intoxicating malt liquor or wine shall be sold, or caused to be sold at off-sale within the City by any person, or by any store or establishment, or by any agent or employee of such person, store or establishment, except by the City and on the premises in the City occupied by the municipal liquor dispensary for the off-sale of liquor and wine. There is hereby established a municipal liquor dispensary for the off-sale and on-sale of liquor and wine. The dispensary shall be located at such suitable places in the City as the Council determines by resolution.

Subd. 1 Off-Sale Dispensary. The following shall apply to the municipal liquor dispensary for the off-sale of liquor and wine:

A. The dispensary shall be under the control of the Manager. The Manager may appoint employees as deemed necessary to operate the dispensary in full compliance with this Section and State Law. No person under the State established legal drinking age shall be employed in the dispensary.

B. The Manager may require persons employed in the dispensary to furnish a surety bond to the City in the same manner as prescribed by Subsection 115.12 of this Code.

C. Subject to the requirements of M.S. 340A.504, the hours of operation and the dispensary shall be established by resolution of the Council.

D. All restrictions as to the manner of conducting sales as set forth in Subsection 900.10 except Subd. 7 thereof shall apply to the dispensary.

Subd. 2. On-Sale Dispensary. All restrictions as to the manner of conducting sales as set forth in subsections 900.10, 900.11 and 900.12 shall apply to the municipal liquor dispensary for the on-sale of liquor and wine.”

900.03 License Required. No person, except wholesalers or manufacturers to the extent authorized by law, directly or indirectly, upon any pretense or by any device, shall sell at off-sale any 3.2 percent malt liquor or at on-sale any 3.2 percent malt liquor, intoxicating malt liquor, wine or intoxicating liquor without first having obtained a license, other than sales by the City at its municipal liquor dispensary.

900.04 License Types. Licenses shall be of eight types:

A. On-Sale Club Liquor License - permits the on-sale of liquor and wine at qualifying clubs. Only establishments possessing an On-Sale Club License on December 31, 1998, shall be eligible for receiving an On-Sale Club Liquor License pursuant to this Section.

B. On-Sale Intoxicating Liquor License - permits the on-sale of liquor and wine at qualifying hotels and restaurants. A qualifying hotel with multiple points of liquor sale and service within the hotel may operate under a single On-Sale Intoxicating Liquor License provided that the sale of food and liquor is under the exclusive ownership and control of the licensee. Any restaurant or other facility serving liquor within a hotel which operates under separate ownership or control shall be considered a distinct entity for purposes of this Section.

C. Off-Sale 3.2 Percent Malt Liquor License - permits the off-sale of 3.2 percent malt liquor at certain retail establishments.

D. On-Sale 3.2 Percent Malt Liquor License - permits the on-sale of 3.2 percent malt liquor at certain retail establishments.

E. Wine License - permits the on-sale of wine at qualifying hotels and restaurants. (Intoxicating malt liquor may be sold on premises holding both a 3.2 percent malt liquor on-sale license and a wine license.)

F. Temporary On-Sale Intoxicating Liquor License – The City Council may issue to (1) a club or charitable, religious, or other nonprofit organization in existence for at least three years, (2) a political committee registered under Section 10A.14. or (3) a State university, a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor and may authorize on-sales on premises other than the premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for

intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. The licenses are subject to the terms, including a license fee, imposed by the City. Licenses issued under this subdivision are subject to all laws and ordinance's, governing the sale of intoxicating liquor except Sections 340A.409 and 340A.504 subdivision 3, paragraph (d), and those laws and ordinances which by their nature are not applicable. Licenses under this subdivision are not valid unless first approved by the Commissioner of Public Safety. Not more than two such licenses shall be issued to the same organization or corporation or location in a calendar year with at least 30 days between issue dates. Each license shall be issued for not more than three consecutive days.

G. Temporary On-Sale 3.2 Percent Malt Liquor License - permits the on-sale of 3.2 percent malt liquor at events sponsored by certain organizations. Not more than two such licenses shall be issued to the same organization or corporation in a calendar year with at least 30 days between issue dates. Each license shall be issued for not more than three consecutive days.

H. Sunday On-Sale License - permits the on-sale of intoxicating liquor on Sunday. Only persons holding an On-Sale Intoxicating Liquor License or an On-Sale Club Liquor License may hold a Sunday On-Sale License

900.05 License Applications; Renewal. An application for any license required by this Section or the renewal of an existing license shall be made on forms provided by the Clerk. The provisions of Section 160 of this Code, shall apply to all licenses required by this Section, and to the holders of such licenses, except that licenses and renewals shall be granted or denied in accordance with Subsection 900.06. All applications shall be accompanied by the fees set forth in Subsection 900.07. Every license issued under this Section shall expire at 12:01 A.M. on April 1 following its date of issuance. Renewal applications shall be submitted at least 60 days but not more than 150 days before expiration of the license. If, in the judgment of the Council as to off-sale and on-sale licenses, good and sufficient cause for the applicant's failure to apply for a renewal within the time provided is shown, the Council, may, if the other provisions of this Section are complied with, grant the license. In addition to the application requirements provided in Section 160 of this Code, applicants shall also provide the following:

- A. The type of license the applicant seeks;
- B. A description of the type of business to be transacted on the licensed premises;
- C. Proof of financial responsibility with regard to liability imposed by M.S. 340A.801 in the manner and to the extent required by M.S. 340A.409. If the applicant claims exemption from the requirements of said Statute, proof of exemption shall be established by affidavit given by the applicant in form and substance acceptable to the Clerk;
- D. All forms and information required by the Police Chief, the Minnesota Department of Public Safety and the Minnesota Department of Revenue;

- E. Any affidavits of the applicant as required by the Clerk, on forms provided by the Clerk, in support of the application;
- F. Authorization to release information obtained in connection with the application;
- G. A statement signed by the applicant stating that he or she has reviewed and understands the pertinent provisions of this Section and State law;
- H. In the case of an application for a Wine License, or On-Sale Intoxicating Liquor License, the applicant shall provide evidence satisfactory to the Clerk as to compliance with the requirements of Subd. 2 of Subsection 900.12 as to the completion of an alcohol awareness program;
- I. In the case of an application for a Wine License or On-Sale Intoxicating Liquor License, the applicant shall provide evidence satisfactory to the Clerk as to compliance with the requirements of Subd. 3 of Subsection 900.12 as to the percentage of food sold on the licensed premises. This requirement shall be established by an affidavit of the licensee on a form provided by the Clerk. The affidavit shall be given with each application for issuance or renewal on a Wine License or an On-Sale Intoxicating Liquor License, or at other times as the Clerk may request. If the application is for the renewal of a Wine License or an On-Sale Intoxicating Liquor License, the affidavit shall also include the actual percentage of gross receipts attributable to the sale of food during the immediately preceding 12-month period. The Clerk shall require that any such affidavit be verified and confirmed, on a form provided by the Clerk, by a Certified Public Accountant. Failure or refusal of a licensee to give such affidavit with such application, or on request of the Clerk, or any false statement in any such affidavit, shall be grounds for denial, suspension or revocation of all licenses held by such licensee.
- J. In the case of an application for a Temporary On-Sale 3.2 Percent Malt Liquor License or a Temporary On-Sale Intoxicating Liquor License. The applicant shall provide evidence satisfactory to the Clerk that the applicant complies with the requirements of Subsection 900.08 as to being a qualified corporation or organization.
- K. Any other information deemed necessary by the Manager to undertake consideration of the application.

900.06 Consideration of Application; Public Hearing. The provisions of Section 160 of this Code shall apply to all licenses required by Subsection 900.04 and to the holders of such licenses, provided that all licenses shall be granted or denied by the City Council and the Commissioner, if required by State law. The City Council shall conduct a public hearing on the application for a new On-Sale Intoxicating Liquor License or a Temporary On-Sale Intoxicating Liquor License within a reasonable period following receipt of a complete application and completion of the investigation required by Subsection 900.05. A notice of the date, time, place and purpose of the hearing shall be published once in the official newspaper not less than ten days before the date of the hearing. After hearing the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future meeting.

No hearing shall be required for the renewal or the transfer of an On-Sale Intoxicating Liquor license.

900.07 Fees.

Subd. 1 **Application Fee.** The annual license application fee shall be the amount set forth in Section 185 of this Code. When a new Wine License or On-Sale Intoxicating Liquor License is issued for a portion of a year, the annual license application fee shall be prorated at the rate of one twelfth of the license fee per month or portion of a month remaining in the license year at the time of application. The annual license application fee for a Wine License or for an On-Sale Intoxicating Liquor License may be refunded, less costs incurred by the City as determined by the Clerk, in the event that the application is withdrawn by the applicant or denied by the Council.

Subd. 2 **On-sale Intoxicating Liquor License Renewal Fee.** A business with an On-sale Intoxicating Liquor License that passes the annual compliance checks, with no violations carrying a penalty of \$500 or greater, under the Administrative Liquor Enforcement Penalty matrix, shall be eligible for a reduction in the annual license fee. The annual license fee reduction shall be \$500, up to a maximum of \$1,000 for two consecutive license years with no violations.

Subd. 3 **Refunds.** A monthly pro-rata share of the annual license fee for a Wine License or an On-Sale Intoxicating Liquor License issued pursuant to this Section may be refunded, less the cost of issuance as determined by the Clerk, if:

- A. The business permanently ceases to operate;
- B. The license is transferred to a new licensee in accordance with Subsection 900.13 and the City receives a license fee for the remainder of the license term from the transferee; or
- C. A premises licensed to sell wine receives an On-Sale Intoxicating Liquor License prior to the expiration of the Wine License. In this instance, a pro-rata share of the Wine License fee may be refunded.

Subd. 4 **Investigation Fees.** Upon application for a new or the transfer of an existing Wine License, On-Sale Intoxicating Liquor License, On-Sale 3.2 Liquor License or Off-Sale 3.2 Liquor License, the applicant shall deposit \$500.00 with the City for the investigation fee. If the investigation requires an out-of-state investigation, an additional \$2,000.00 shall be deposited before further processing of the application by the City. The Clerk may from time to time require the deposit of additional investigation fees up to the limits provided herein before further processing of the application if the cost of investigation exceeds the amounts previously deposited. The cost of the investigation shall be based on the expense involved, but in no event shall it exceed \$500.00 if the investigation is limited to the State or \$10,000.00 if outside the State. All deposited monies not expended on the investigation shall be refunded to the applicant. All investigative expenses incurred in excess of the deposit shall be paid prior to consideration of the license application by the Council. Investigation fees for license

renewal shall not exceed \$200.00 unless there is a change of ownership of more than 10% cumulatively over the then existing license period.

900.08 Persons Ineligible for License. The following restrictions apply to any applicant who is a natural person, a general partner if the applicant is a partnership or a corporate officer if the applicant is a corporation. No license shall be granted to:

A. Any manufacturer, brewer, or wholesaler as defined in M.S. 340A.101, or any manufacturer of 3.2 percent malt liquor, or to any person who has a financial interest, directly or indirectly, in such manufacturer, brewer or wholesaler.

B. Any person under the State established legal drinking age.

C. Any person convicted of any willful violation of any law of the United States or any provision of State Law or this Code with regard to the manufacture, sale or distribution of liquor.

D. Any person not eligible under M.S. 340A.402, the regulations of the Commissioner or Section 160 of this Code.

E. Any person who has (i) been convicted, within the five years prior to the application for a license, of any violation of any law of the United States, the State, or any other state or territory, or of any local ordinance with regard to: (a) the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor or other controlled substances as defined by State Statute, (b) gambling, (c) theft, or (d) vice; or (ii) had an intoxicating liquor license, including a wine on-sale license, revoked for any violation of any statutes, ordinances or regulations relating to the manufacture, sale, distribution or possession of liquor or wine.

F. Any person who has applied for or holds a federal wholesale or retail liquor dealer's special stamp or a federal or State gambling or gaming stamp or license.

G. Any person who is an employee or elected official of the City.

H. Any person who has falsified any information given either in the application or in the process of investigation.

I. Any person who upon renewal, has been found in violation of any provision of this Section or applicable State Law.

J. If an individual, any person who is not a U.S. citizen or resident alien.

K. Any person who is financially indebted to a person who is disqualified under this Subd.

L. If for a Temporary On-Sale 3.2 Percent Malt Liquor License, any person who is not a non-profit corporation or organization that has been in existence for at least three years where the serving of alcoholic beverages is incidental to and not the main purpose of the organization and which is organized for i) charitable or religious purposes for which gifts are deductible from the income of the donor under the Internal Revenue Code of 1986, as

now enacted or as supplemented or amended, ii) service to the nation, state or community, iii) social purposes, iv) promotion of sports, v) promotion of persons to elective office, or vi) promotion of business within the community. A holder of a Temporary On-Sale 3.2 Percent Malt Liquor License shall not be eligible to hold a Temporary On-Sale Intoxicating Liquor License during all or part of the same license term.

M.If for an On-Sale Intoxicating Liquor License, any person who holds an interest in an On-Sale Intoxicating Liquor License or has made application for such a license for more than three locations in the City. It is the intent hereof that no person may possess or hold an interest in more than three On-Sale Intoxicating Liquor Licenses at one time in the City. For purposes hereof, "interest" includes any pecuniary interest in the ownership, operation, management or profits of the establishment, but does not include: i) bona fide loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business or selling or leasing merchandise, fixtures or supplies to such establishment or ii) any interest of five percent or less in any corporation holding an On-Sale Intoxicating Liquor License

900.09 Places Ineligible for a License

Subd. 1 **General Restrictions.** No off-sale or on-sale license shall be granted or renewed for:

A. Any property on which taxes, assessments or other financial claims of the State, County or City are due, delinquent or unpaid.

B. Any property on which the business is to be conducted is owned by a person who is ineligible for a license pursuant to Subsection 900.08

C. Any property located within 300 feet of a place of worship or an elementary, junior high or senior high school having a regular course of study accredited by the State. A location which holds a license under this Section shall not be declared ineligible for license renewal or transfer due to a place of worship or school that was newly located in its proximity after license issuance. The provisions of this paragraph shall not apply to Temporary On-Sale 3.2 Percent Malt Liquor Licenses or Temporary On-Sale Intoxicating Liquor Licenses.

D. Any property where a license issued under this Section has been revoked during the preceding year unless the issuance of the license is unanimously approved by the Council then present.

E. Any property where the conduct of the business is prohibited by Section 850 of this Code.

F. Any property not eligible under M.S. 340A and the regulations of the Commissioner.

G. Any property used as a sexually oriented business as defined by Section 850 of this Code.

Subd. 2 **Off-Sale 3.2 Percent Malt Liquor Licenses.** In addition to the requirements of Subd. 1 of this Subsection, no Off-Sale 3.2 Percent Malt Liquor License shall be granted to any theater, recreation establishment, public dancing place or establishment holding any on-sale license.

Subd. 3 **On-Sale 3.2 Percent Malt Liquor Licenses.** In addition to the requirements of Subd. 1 of this Subsection, no On-Sale 3.2 Percent Malt Liquor License shall be granted for establishments other than (i) private clubs which have been incorporated for more than ten years and which own and operate club houses for their members in which the serving of such liquor is incidental to and not the major purpose of such club, (ii) restaurants, (iii) golf courses, (iv) the Edina Golf Dome, (v) bowling centers and (vi) hotels. The provisions of this Subdivision do not apply to Temporary On-Sale 3.2 Percent Malt Liquor Licenses.

Subd. 4 **Wine Licenses.** In addition to the requirements of Subd. 1 of this Subsection, no Wine License shall be granted to any establishment other than a restaurant located in the PCD-1, PCD-2, PCD-3 Subdistricts, the Mixed Development District or the Planned Office District.

Subd. 5 **On-Sale Intoxicating Liquor Licenses.** In addition to the requirements of Subd. 1 of this Subsection, no On-Sale Intoxicating Liquor License shall be granted to i) any establishment other than a restaurant or hotel located in the PCD-2, PCD-3, POD-2 Subdistricts or the Mixed Development District as established by Section 850 of this Code; ii) any amusement or recreation establishment including amusement arcades, pool halls or establishments offering amusement devices which means:

- A. A machine which upon the insertion of a coin, slug or other token, or upon payment of a fee, operates, or may be operated, as a game, contest or other amusement.
- B. Miniature pool tables, bowling machines, shuffle boards, electric rifle or gun ranges, and machines patterned after baseball, basketball, hockey and similar games and like machines.
- C. Amusement devices designated for and used exclusively by children, such as, but not limited to, kiddie cars, miniature airplane rides, mechanical horses, and other miniature mechanical devices

In addition, no On-Sale Intoxicating Liquor License shall be granted to any establishment located in the PCD-2 Subdistrict which will contain more than 200 seats; provided, however, a premises in the PCD-2 Subdistrict holding a wine license issued by the City which was in effect on December 31, 1998, and which contains more than 200 seats may be issued an On-Sale Intoxicating Liquor License, but the licensed premises shall not be thereafter expanded to include more seats than existed on December 31, 1998. For purposes of the preceding sentence, outdoor, seasonal dining areas shall not be included in the seat count provided that such outdoor seating comprises 20 percent or less of the total seating capacity of the licensed premises.

In addition, no On-Sale Intoxicating Liquor License shall be granted to any establishment that has bowling lanes or bocce courts except to a restaurant and subject to the following:

A. Not more than 50% of the gross floor area of the licensed premises shall comprise bowling lanes or bocce ball courts. For purposes hereof, each bowling lane shall be deemed to measure 650 square feet and each bocce ball lane shall be deemed to measure 900 square feet.

B. Machines or amusement devices as defined by Section 220 of this Code shall not be permitted in the licensed premises.

C. Bowling lanes and bocce courts and lanes shall be located indoors. All exterior windows and doors adjoining areas occupied by bowling lanes or bocce ball courts must remain closed between the hours of 10 PM and 9 AM.

D. Outdoor games are prohibited.

Subd. 6 **Temporary Licenses.** In addition to the requirements of Subd 1 of this Subsection, not more than two such licenses shall be issued to the same organization or corporation or location in a calendar year with at least 30 days between issue dates. Each license shall be issued for not more than three consecutive days.

900.10 General Restrictions; Conditions of Sale.

Subd. 1 **Conduct.** Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of sobriety and order.

Subd. 2 **Age.** No wine or liquor shall be sold to any person under the State established legal drinking age, or to an intoxicated person, directly or indirectly.

Subd. 3 **Under Age Workers.** No person under the age of 18 shall serve or sell liquor or wine.

Subd. 4 **Gambling and Prostitution.** No licensee shall keep, possess or operate, or permit the keeping, possession or operation on the licensed premises, or in any room adjoining the licensed premises controlled by the licensee, any slot machines, dice or other gambling equipment as defined in M.S. 349.30, nor permit any gambling therein, nor permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under licensee's control, to be used as a resort for prostitutes or other disorderly persons; provided, however, that lawful gambling may be carried on if allowed by this Code and where allowed by a license issued pursuant to M.S. 349 or this Code.

Subd. 5 **Manufacturer or Distiller of Malt Liquor.** No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or brewer, as defined in M.S. 340A, of wine or liquor.

Subd. 6 **Open to Inspection.** All licensed premises shall be open to inspection by any police officer or other designated officer or employee of the City at any time there are persons within the licensed premises.

Subd. 7 **Hours of Sale.** The hours and days of sale shall be as set forth in M.S. 340A.504. Except, however:

D. Establishments holding a Wine License under this Section or establishments holding both an On-Sale Club Liquor License and a Sunday On-Sale License under this Section may sell intoxicating liquor or wine in conjunction with the sale of food between the hours of 10:00 A.M. and 12:00 midnight on Sundays, provided that the licensee is in conformance with the Minnesota Clean Air Act, and

E. Establishments holding both an On-Sale Intoxicating Liquor License and a Sunday On-Sale License may sell intoxicating liquor and wine in conjunction with the sale of food between the hours of 10:00 A.M. on Sundays and 1:00 A.M. on Mondays.

Subd. 8 **Hours of Consumption.** No liquor or wine shall be consumed by any person on, in or about a licensed premises more than 30 minutes following the time established by this Subsection for cessation of the sale of wine or liquor.

Subd. 9 **No Liquor or Wine in Non-Licensed Food Establishments.** Except as permitted by a license issued pursuant to this Section, no person shall take or carry any wine or liquor into any food establishment as defined in Section 721 of this Code.

Subd. 10 **Mixing or Sale for Mixing Prohibited.** Except as permitted by a license issued pursuant to this Section, no person shall mix with liquor or wine or sell for the purpose of mixing with liquor or wine, any soft drink, other liquor or beverage in any food establishment as defined in Section 721 of this Code.

Subd. 11 **Illegal to Permit Mixing.** Except as permitted by a license issued pursuant to this Section, no person shall consume, or permit the consumption, mixing or spiking of any beverage by adding to the same any liquor, in any building or place operated as a food establishment as defined in Section 721 of this Code. The fact that any person in any food establishment, as defined in Section 721 of this Code, sold any liquid or beverage to a person who thereupon and therein added to such liquid or beverage any liquor or wine shall be prima facie evidence that such liquid or beverage was sold by such person for the purpose of adding liquor or wine and shall be prima facie evidence that such person and the person's employer permitted the mixing or spiking of such liquid by adding wine or liquor.

Subd. 12 **Bottle Clubs Prohibited.** Except as permitted by a license issued pursuant to this Section, establishments or clubs that directly or indirectly allow the consumption or display of wine or liquor, or knowingly serve any liquid for the purpose of mixing with liquor or wine, shall be prohibited. Permits for bottle clubs issued by the Commissioner under M.S. 340A.414 shall not be approved by the Council.

Subd. 13 **Posting of License.** A license issued under this Section shall be posted in a conspicuous place in the licensed premises.

Subd. 14 **Compact and Contiguous Premises.** A license issued under this Section is only effective for the compact and contiguous space specified in the approved license application. No sales or consumption of wine or liquor shall be permitted beyond the

licensed premises. The licensed premises shall not be increased in size or seating capacity during the then license period.

Subd. 15 Sobriety and Order. A licensee shall be responsible for the conduct of business being operated and shall maintain conditions of sobriety and order.

Subd. 16 Adult Entertainment Prohibited. The Findings, Purpose and Objectives of Section 1345 of the City Code are hereby incorporated by reference. No licensee shall permit any specified sexual activities, the presentation or display of any specified anatomical areas or the conduct of a sexually oriented business all as defined by Section 850 of this Code on the licensed premises or in areas adjoining the licensed premises where such activities or the conduct of such a business can be seen by patrons of the licensed premises.

Subd. 17 State Law. All applicable provisions of State Law shall be complied with in connection with the sale of wine and liquor.

900.11 Special Requirements for the On-Sale of 3.2 Percent Malt Liquor. In addition to the requirements imposed by Subsection 900.10, the following special requirements apply to the on-sale of 3.2 percent malt liquor:

Subd. 1 Place of Serving and Consumption. 3.2 percent malt liquor sold pursuant to a 3.2 percent malt liquor license shall be served and consumed at tables in the dining or refreshment room on the licensed premises and shall not be consumed or served at bars; provided, the same may be consumed or served at the following locations:

- A. At counters where food is regularly served and consumed.
- B. On decks, patios and other outdoor dining areas which are adjacent to the licensed premises.
- C. On grounds of a golf course.

Subd. 2 Temporary Licenses. The provisions of Subd. 1 of this Subsection do not apply to 3.2 percent malt liquor sold pursuant to a Temporary 3.2 Percent Malt Liquor License.

900.12 Special Requirements for the On-Sale of Wine, Intoxicating Malt Liquor and Intoxicating Liquor. In addition to the requirements of Subsection 900.10, the following special requirements apply to the sale of wine, intoxicating malt liquor and intoxicating liquor sold pursuant to a Wine License or and On-Sale Intoxicating Liquor License issued in accordance with this Section:

Subd. 1 Licensed Premises. The licensed premises must:

- A. Have an exclusive entrance from and exit to the exterior of the building in which the license premises is located or to a public concourse or public lobby, and have a physical barrier separating the licensed premises from other areas so as to prevent the passing of patrons other than through the required entrances and exits.

B. Have a valid food establishment license issued pursuant to Section 721 of this Code and have adequate space, as determined by the Sanitarian, for the storage, preparation and handling or service of food, wine, and liquor.

C. The premises shall not have more than 15 percent of its seating capacity located at a bar or service counter.

Subd. 2 Alcohol Awareness Training.

A. Within 30 days following the issuance of a new Wine License or a new On-Sale Intoxicating Liquor License, not less than 75% of the employees authorized to serve or sell wine or liquor on the licensed premises shall have completed an alcohol awareness program approved by the Police Chief.

B. Not less than 75% of the employees authorized to serve or sell wine or liquor on the licensed premises must complete an alcohol awareness program approved by the Police Chief within 90 days prior to an application for license renewal for a Wine License or a On-Sale Intoxicating Liquor License.

Subd. 3 Percentage of Food Sold. Not less than 60 percent of the restaurant's or hotel's gross receipts from the combined sale of food, non-alcoholic beverages, wine and liquor, on an annual basis, shall be attributable to the sale of food and non-alcoholic beverages.

Subd. 4 Limit of Alcohol Strength. No wine over 14 percent alcohol by volume may be sold or consumed on a premises holding a Wine License.

Subd. 5 Denied Sales or Consumption. No sales or consumption of wine or liquor shall be permitted beyond the licensed premises.

Subd. 6 Container Volume Restrictions. Wine may not be sold, served or consumed in containers larger in volume than one liter.

Subd. 7 Sale Prices. No licensee shall offer prizes, coupons, punch cards, games, or barbers that promote the sale or consumption of alcoholic beverages, or furnish two (2) or more servings of an alcoholic beverage for the payment of the price regularly charged for one serving of that beverage.

Subd. 8 Diluting, Changing, or Tampering with Wine or Liquor Prohibited. No licensee shall sell, offer for sale or keep for sale, wine or liquor in any original package that has been refilled or partly refilled. No licensee shall directly or through any other person, dilute, or in any manner tamper with, the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any wine in the original package differing in composition, alcoholic content or type from the wine received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.

Subd. 9 **Sales in Hotels.** No sale of wine or liquor shall be made to or in guest rooms of hotels unless:

- A. The rules of such hotel provide for the service of meals in guest rooms;
- B. The sale of such wine and liquor is made in the manner which conforms to the requirements of Subsection 900.12;
- C. Such sales is incidental to the regular service of meals to guests in their rooms; and
- D. The rules of such hotel and the description, location, and number of such guest rooms are fully set out in the license application.

900.13 Special Requirements for Temporary Licenses. In addition to the requirements of Subsection 900.09 and Subd 4, Subd 6 and Subd 8 of Subsection 900.12, the following special requirements apply to the sale of 3.2 percent malt liquor, wine and intoxicating liquor sold pursuant to a Temporary On-Sale 3.2 Percent Malt Liquor License or a Temporary On-Sale Intoxicating Liquor License issued in accordance with this Section:

Subd.1 **Licensed Premises.** The licensed premises must have a physical barrier separating the licensed premises from other areas so as to prevent the passing of patrons in locations other than through approved entrances and exits.

Subd. 2 **Sales and Consumption.** No sales or consumption of alcoholic beverages shall be permitted beyond the licensed premises.

Subd. 3 **Manager.** The Council premises shall be under the direct supervision of a manager designated in the application.

Subd. 4 **Police Protection.** The applicant shall provide, at the applicant's expense, policing of the license premises by either an off-duty Edina police officer or a security company approved by the approved by the Police Chief or the Chief's designee.

Subd 5 **Age of Servers.** For a Temporary On-Sale Intoxicating Liquor License, all persons engaged in the service of alcoholic beverages must be not less than 18 years of age.

Subd. 6 **Hours of Sale and Consumption.** In addition to the provisions of Subd. 7 and Subd. 8 of Subsection 900.10 of this Code, the Council may further restrict the sale and consumption of alcoholic beverages pursuant to a temporary license to certain hours.

Subd. 7 **Sale Prices.** No licensee shall promote the consumption of alcoholic beverages on the licensed premises by any means or methods which result in prices which are less than those normally charged during the license term including, but not limited to, two-for-one offers, happy hours, or other similar offers, prizes, coupons, games or barbers.

Subd. 8 **Other Requirements.** The City Council may impose other requirements, as it deems necessary to promote public safety.

900.14 Restrictions on Transfer of License. No license shall be transferred to any person or premises by the person or from the premises to whom and for which the license was granted, by any means whatsoever, including, without limitation, devise or descent or involuntarily by the operation of law, without the person and premises to whom and to which the license is to be transferred having first submitted an application containing all of the information required in an original application, and complying with all requirements for an original license, and receiving the approval of the Council, and where required, the Commissioner. Any change in the persons named in the original application or any change in the information in such original application shall be deemed a transfer for the purposes of this Section. Provided, however, the following changes shall not be deemed a transfer:

- A. A change in the ownership of a limited partnership comprising 10% or less cumulatively of the limited partnership during the then license period;
- B. A change in ownership of a corporation comprising 10% or less cumulatively of the stock owners during the then license period; or
- C. A change in one of the corporation's officers during the term of the then license. Provided, however, the corporation shall give notice of a change in officer to the Clerk and the new officer shall comply with all requirements of this Section and Section 160 of this Code.

900.15 Sanctions for License Violations.

Subd. 1 **Purpose.** The purpose of this Subsection is to establish a standard by which the Council shall determine the length of license suspensions and the propriety of revocations. This section shall apply to all premises licensed under this Section and the penalties herein shall be presumed to be appropriate. The Council may deviate from the presumptive penalty when it finds that there exists extenuating or aggravating reasons to deviate, including, but not limited to a licensee's efforts, in combination with the state or the city, to prevent the sale of alcohol of minors. When deviating from these standards, the Council shall provide written findings supporting the penalty selected.

Subd. 2 **Hearing Notice.** No sanction under this Subsection shall take effect until the licensee has been given the opportunity for a hearing has been held in accordance with M.S. 340A.415 and M.S. 14.57 to 14.69 of the Administrative Procedures Act. The Council may appoint a hearing examiner or may conduct a hearing itself. The hearing notice shall be given at least ten (10) days prior to the hearing, include notice of the time and place of the hearing, and state the nature of the charges against the licensee. For first violations, for which the presumptive penalty is a fine, the license holder may, at any time prior to the hearing, pay the fine and waive the right to a hearing.

Subd. 3 **Presumed Penalties for Violations.**

Type of Violation	1st Violation	2nd Violation	3rd Violation	4th Violation
Commission of a felony related to the licensed activity	Revocation	N/A	N/A	N/A

Sale of alcoholic beverages while license is under suspension	Revocation	N/A	N/A	N/A
Adult entertainment	Revocation	N/A	N/A	N/A
Sale of intoxicating liquor where only licensed for 3.2 percent malt liquor	Revocation	N/A	N/A	N/A
Refusal to allow City inspectors or police admission to inspect premises	\$1,000.00 fine and 3 day suspension	\$2,000.00 fine and 7 day suspension	Revocation	N/A
Sale of alcoholic beverages to underage person	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000.00 and 7 day suspension	Revocation
After/before hours sale of alcoholic beverage	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000.00 fine and 7 day suspension	Revocation
After hours consumption of alcoholic beverages	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000 fine and 7 day suspension	Revocation
Illegal gambling or prostitution on premises	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000.00 fine and 7 day suspension	Revocation
Failure to take reasonable steps to stop person from leaving premises with alcoholic beverage	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000.00 fine and 7 day suspension	Revocation
Sale of alcoholic beverage to obviously intoxicated person	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000.00 fine and 7 day suspension	Revocation
Allowing a disorderly establishment	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000.00 fine and 7 day suspension	Revocation

Person under 18 serving liquor	\$500.00 fine	\$1,000.00 fine and 3 day suspension	\$2,000.00 fine and 7 day suspension	Revocation
Failure to display liquor license	Warning letter	\$500.00 fine	\$1,000.00 fine	\$1,500.00 fine
Failure to meet requirement of 60% of gross receipts from sale of food and non-alcoholic beverages	\$500 fine; a twelve month probationary license; development of a plan to achieve compliance within one year, with a monitoring visit at 6 months.	\$1,000 fine; a twelve month probationary license; development of a plan to achieve compliance within one year, with a monitoring visit at 6 months.	Revocation and license holder is barred from holding future liquor licenses for a period of not more than twenty four months.	

Subd. 4 **Other Penalties.** When the penalty for violations of this Section or an applicable statute, ordinance, or rule regarding alcoholic beverages is without a presumptive penalty, the penalty shall be determined by the Council.

Subd. 5 **Multiple Violations.** At a licensee's first appearance before the Council, the Council must act upon all of the violations that have been alleged in the notice sent to the licensee. The Council shall consider the presumptive penalty for each violation under the first appearance column in this Subsection. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the Council's discretion.

Subd. 6 **Subsequent Violations.** A violation occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the Council, unless the Manager and licensee agree in writing to add the violation to the first appearance. The same procedure applies to the second, third, or fourth appearance.

Subd. 7 **Subsequent Appearances.** Upon a second or subsequent appearance before the Council by the same licensee, the Council shall impose the presumptive penalty for the violation or violations giving rise to the particular violation or violations that were the subject of the prior appearance. However, the Council may consider the amount of time elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this Subsection.

Subd. 8 **Computation of Violations.** Violations are computed as follows:

- A. Any violation which has occurred within twenty-four (24) months of the current violation shall be counted.

B. Nothing in this Subsection shall restrict or limit the authority of the Council to suspend a license up to sixty (60) days, revoke the a license, impose a civil fee not to exceed \$2,000.00, to impose conditions on a license, or take any other action in accordance with law, provided that the license holder has been afforded an opportunity for a hearing in the manner provided under this Subsection.

900.16 Inactive Licenses. The City Council may revoke an On-Sale Intoxicating Liquor License granted to an establishment which has i) failed to make satisfactory progress toward completion of the construction of a new licensed premises or ii) ceased operation for a period of six months or more. The provisions of Subsection 900.14 shall apply to such revocations.

900.17 Incorporation by Reference. The provisions of M.S. 340A. which are referenced in this Section are hereby adopted and incorporated by reference and made a part of this Section, including all regulations of the Commissioner which relate to such incorporated provisions of M.S. 340A.

History: Ord 902 adopted 1-11-84; amended by Ord 902-A1 4-24-85; Ord 902-A2 12-11-85; Ord 902-A3 4-23-86; Ord 902-A4 6-25-86; Ord 902-A6 12-19-89; Ord 902-A7 5-23-90; Ord 902-A8 3-17-91; Ord 902-A9 3-27-91; Ord 902-A9; Ord 902-A10 4-10-91; Subsection 900.22 repealed by Ord 1993-1 1-20-93; Ord 1993-11 10-27-93; Subsection 900.26 repealed by Ord 1994-10 10-12-94; amended by Ord 1995-11 12-19-95; amended by Ord 1997-14 12-1-97; amended by Ord 1998-3 4-6-98; recodified by Ord 1999-4 3-1-99; amended by 1999-7; 3-15-99; amended by Ord 2000-13 12-19-00; amended by Ord 2001-6; amended by Ord 2001-8; 11-20-01; amended by Ord 2002-10, 1-21-03; amended by Ord 2004-02, 3-16-04; Ord. 2004-08, 5-27-04; Ord 2005-05 6-30-05; Ord 2006-10, 12-5-06; Ord 2008-07, 06-17-08; Ord 2010-13, 6-15-10; Ord 2010-15, 10-05-10; Ord 2012-5, 02-21-2012; Ord 2012-10, 05-1-2012

Reference: Minnesota Laws 1973, Chapter 441 (Sunday sale licenses for clubs); Minnesota Laws, 1980, Chapter 410 (Sales at Edina Foundation Ball), M.S. 340A, 349

Cross Reference: Sections 100, 160, 185, 721, 850; Subsection 115.12; Subsections 1230.02; 1230.07; 1230.08